(1) Supreme Court, U.S.
FILED
AUG 8 2002
OFFICE OF THE CLERK

No. 02 735

IN THE

Supreme Court of the United States

JANE BEVAN,

Petitioner

v.

NBC NEWS BUREAUS, INC., NBC NEWS CHANNEL, INC., WATERMAN BROADCASTING CORPORATION OF FLORIDA, INC., NBC-2 NEWS, WBBH TELEVISION, BERNARD E. WATERMAN, STEVE PONTIUS, DEBORAH ABBOTT, DARREL ADAMS, CHRIS WADSWORTH, CRAIG WOLF, and KELLIE BURNS

On Petition For Writ Of Certiorari
To The Supreme Court Of Florida

PETITION FOR WRIT OF CERTIORARI

JANE BEVAN, *ATTORNEY PRO SE,* 1200 Masanabo Lane, Fort Myers, FL, 33919, 239-939-2400

08 pp

QUESTIONS PRESENTED

Does a per curiam affirmed decision by the Florida District Court of Appeal violate Florida's Sunshine Law?

Is it necessary in the fulfillment of its constitutional duty for the Supreme Court of Florida, at least, to look into the 'record proper' in order to ascertain the significance of a decision of a district court of appeal when such court's opinion and judgment contain nothing more than the words 'per curiam affirmed?'

Does the Plaintiff have the right to elect venue in accordance with Florida Statute 47.051 and established case law?

Was venue appropriately laid in Broward County in accordance with Florida Law?

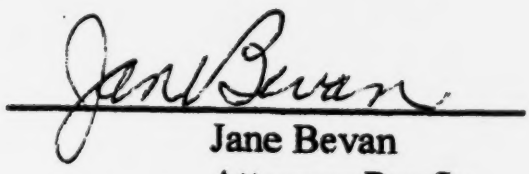
CERTIFICATE OF INTERESTED PARTIES

The undersigned attorney pro se certifies that the following listed parties have an interest in the outcome of the case.

JANE BEVAN
PETITIONER

NBC NEWS BUREAUS, INC., NBC NEWS CHANNEL, INC., WATERMAN BROADCASTING CORPORATION OF FLORIDA, INC, NBC-2 NEWS, WBBH TELEVISION, BERNARD E. WATERMAN, STEVE PONTIUS, DEBORAH ABBOTT, DARREL ADAMS, CHRIS WADSWORTH, CRAIG WOLF, and KELLIE BURNS

RESPONDENTS



Jane Bevan
Attorney Pro Se

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STATEMENT OF JURISDICTION

The United States Supreme Court has jurisdiction over this case in accordance with the Due Process Clause, the 14th Amendment to the United States Constitution, and Florida's Sunshine Law. Jane Bevan petitions this court from the ruling of Florida's Supreme Court dated June 17, 2002. See Appendix.

STATUTORY PROVISIONS INVOLVED

The following Florida statutory provisions are relevant to the determination of the present action:
Florida Statute Title XIX, Chapter 286
Florida Statute Section 47.051
Florida Statute Section 47.101
The pertinent text from these provisions can be found in Appendix.

STATEMENT OF THE CASE

Petitioner, Jane Bevan, filed a complaint for defamation, invasion of privacy, and negligence against the Respondent's in Broward County. Although most of the Respondent's reside in Lee County, three of the Respondent's are foreign corporations with their registered agent located in Broward County. It is alleged in the complaint that the Respondent's defamed the Petitioner, Jane Bevan, by stating in two news broadcasts dated

April 9, 1999 and April 12, 1999 that Jane Bevan terrorized the neighborhood for years and conducted a reign of terror. Furthermore, the Petitioner, Jane Bevan, was called a terrorist in the news story. This defamatory story was broadcast on television in Lee, Charlote, Glades, Hendry, Desoto and Collier counties and published and disseminated in Broward County via the internet and email system. This story was subsequently distributed to the main NBC headquarters and other news affiliates and stored on Respondent's website. Acting pro se, Petitioner, Jane Bevan, subsequently filed a Notice of Appeal. The federal questions sought to be reviewed were raised in the Florida Supreme Court.

SUMMARY OF THE ARGUMENT

A Per Curiam Affirmed decision by the Florida District Court of Appeal offers no opinion, no records, no notations by the Judges nor their law clerks, nor explanation and no reasoning behind the decision. These absent opinions, records and notations by the Judges and/or their law clerks are all kept secret, hidden from the general public and thus violates Florida's Sunshine Law Chapter 286 of Florida's Statutes. A publication of the opinion or an explanation for the courts ruling was mandatory under Florida's Sunshine Law. FLA. STAT. Section XIX. Not only would an opinion comply with the Sunshine Law, but would have offered the Petitioner Jane Bevan an explanation for the ruling

of the District Court. This opinion would have afforded the Petitioner Jane Bevan with the understanding of how the court reached its decision and also would have provided the opportunity to review her case to see if it had merit to appeal to a higher court. Due Process necessarily includes the right to notice and an opportunity to be heard. An individual's procedural due process rights are violated when a deprivation of a right has occurred without notice and an opportunity to be heard. It is a denial of due process when a petitioner is denied the right to be heard at the Supreme Court of Florida simply because the lower Appellate court did not write an opinion and issued a per curiam affirmed decision. In order to ascertain the significance of a decision of a district court of appeal when such court's opinion and judgment contain nothing more than the words 'per curiam affirmed' or language of similar import, it is necessary in the fulfillment of its constitutional duty for the Supreme Court, at least, to look into the 'record proper.' This is no burdensome chore but if it were the constitutional mandate to the Supreme Court of Florida to maintain, as 'a central authority,' uniformity and harmony in the law administered by the Supreme Court and the District Courts of Appeal would, nevertheless require this procedure.

The election of venue is with the plaintiff and although it may be more convenient to the defendant and possibly to the plaintiff that the action be prosecuted in another county or circuit, nevertheless,

if the election is one which the plaintiff has properly exercised under the statute, then the election still remains his and not one which can be dictated by the defendant. To hold otherwise would be to nullify the venue statute which gives the plaintiff the right to file his action in a particular place. The existence merely of an agent, for service of process or otherwise, in a particular county would establish the propriety of venue in that county as to a foreign corporation. Since three of the Respondent's are foreign corporations with their registered agent residing in Broward County, venue is appropriately laid in Broward County. Venue is appropriate in Broward County since the Respondent's published the defamatory statements in Broward County. Venue for a libel action is appropriately laid in the county where the publication was distributed. Here, Respondent's published and distributed the defamatory statements through the internet and email system to residents in Broward County, therefore venue in Broward County is appropriate for this case. Finally, Venue should be held in Broward County because the Respondent's have undue influence over the minds of the residents of Lee County by controlling two out of the three major television networks. Because of this great undue influence that Respondent's possess over the minds of the residents of Lee County, Petitioner, Jane Bevan, could not receive a fair trial in Lee County.

ARGUMENT AND AUTHORITIES

I. A Per Curiam Affirmed Decision By The Florida District Court of Appeal Violates Florida's Sunshine Law.

A Per Curiam Affirmed decision by the Florida District Court of Appeal offers no opinion, no records, no notations by the Judges nor their law clerks, nor explanation and no reasoning behind the decision. These absent opinions, records and notations by the Judges and/or their law clerks are all kept secret, hidden from the general public and thus violates Florida's Sunshine Law Chapter 286 of Florida's Statutes. Chapter 286.011(2) states that "The minutes of a meeting of any...authority shall be promptly recorded, and such records shall be open to public inspection." FLA. STAT. Section XIX. In the present case at bar, the Fourth District Court of Appeal for Florida violated Florida's Sunshine Law by not recording the minutes of their meeting in Petitioner Jane Bevan's case. No records were provided of their meetings or discussions of Petitioners case. No explanation was provided on how the Court came to its conclusion. The Fourth District Court of Appeal simply stated in one sheet "Per Curiam Affirmed" without an opinion.

A publication of the opinion or an explanation for the courts ruling was mandatory under Florida's Sunshine Law. FLA. STAT. Section XIX. Not only would an opinion comply with the Sunshine Law,

but would have offered the Petitioner Jane Bevan an explanation for the ruling of the District Court. This opinion would have afforded the Petitioner Jane Bevan with the understanding of how the court reached its decision and also would have provided the opportunity to review her case to see if it had merit to appeal to a higher court.

The District Courts of Appeal are an "authority" under Florida's Sunshine Law and should be compelled to follow the law. FLA. STAT. Section XIX. The District Courts of Appeal have a unique position in the state of Florida. They are considered the courts of last resort for an appellant because if the District Court of Appeal reaches a decision in a case and merely states for the record "Per Curiam Affirmed" the Appellant is prevented from having her case heard by the Florida Supreme Court. See Jenkins v. State, 385 So. 2d 1356 (Fla. 1980). The decisions by the District Court of Appeal have a profound impact upon a case because they are the "authority" to decide if a case would have the ability to be heard in the Florida Supreme Court. If the District Courts of Appeal possess such "authority" then they must comply with Florida's Sunshine Law and have the meetings of the court recorded, published and open to public inspection.

With the case at bar, the Judges of the Fourth District Court of Appeal met in secret to discuss the notes of the presiding Judge in violation of Florida's Sunshine Law Chapter 286.011(1). That section of

the Florida's Sunshine Law states that "All meetings of any... authority...at which official acts are to be taken are declared to be public meetings open to the public at all times, and no...formal action shall be considered binding except as taken or made at such meeting." FLA. STAT. Section XIX. Under Florida's Sunshine Law, the meeting of the Judges to discuss their notes, their opinions and the notes of the presiding Judge should have been a public meeting. Furthermore, the formal action of the Fourth District Court of Appeal of Florida of issuing the "Per Curiam Affirmed" decision should have been made at a public meeting.

The making of a decision or issuing an opinion for the public record would not make the District Court of Appeal a weigh station to the Supreme Court because both Appellant and Appellee would completely understand the ramifications of proceeding further past the District Court of Appeal. The opponents in the appeal should be told by the District Court of Appeal the reasons why the appeal is either granted or denied, citing either prior case law or statute. To ignore issuing an opinion and merely stating Per Curiam Affirmed, the District Court of Appeal could possibly be compounding an error made by the lower court that would forever be hidden from further review by a higher court. The District Court of Appeal should be prohibited from rubber stamping any and all of their decisions "Per Curiam Affirmed." Unlike a jury they, the judges of the

District Court of Appeal, are paid to render decisions that then become public domain and should be put into print in the Public Record.

Because the Fourth District Court of Appeal did not meet in a public meeting and because their decisions were not recorded for the public record, the "Per Curiam Affirmed" decision in the present case should be ruled to be in violation of the Florida's Sunshine Law and the decision should be reversed and remanded with an order compelling that the reasons for their, the District Court of Appeal, decision should be recorded in the form of an opinion.

II. IT IS THE CONSTITUTIONAL DUTY OF THE SUPREME COURT OF FLORIDA TO LOOK INTO THE 'RECORD PROPER' WHEN AN OPINION OF A DISTRICT COURT OF APPEAL CONTAINS NOTHING MORE THAN THE WORDS 'PER CURIAM AFFIRMED.'

The substantive component of the due process clause protects those rights that are "Fundamental," that is, rights that are "Implicit in the concept of ordered liberty." Palko v. Connecticut, 302 U.S. 319, 325 (1937). For a court to find denial of due process, the petitioner must establish an actual deprivation of a right. Harrison v. State Department of Public Safety,

298 So. 2d 312, 318 (1974). It is a denial of due process to abridge the right of the people to petition the Supreme Court of Florida for a redress of grievances simply because the lower Appellate Court has issued a per curiam affirmed. Due Process necessarily includes the right to notice and an opportunity to be heard. U.S.C.A. Const. Amend. 14. An individuals procedural due process rights are violated when a deprivation of a right has occurred without notice and an opportunity to be heard. Lachance v. Erikson, 522 U.S. 262 (1998). Here, Jane Bevan's procedural due process rights will be violated if she is not afforded an opportunity to be heard in the Supreme Court of Florida simply because the lower court's opinion contained nothing more than the words per curiam affirmed.

The Supreme Court of Florida in King v. State said that in order to ascertain the significance of a decision of a District Court of Appeal when such court's opinion and judgment contain nothing more than the words 'Per Curiam Affirmed' or language of similar import, it is necessary in the fulfillment of its constitutional duty for this Court, at least, to look into the 'Record Proper.' King v. State, 143 So. 2d 458 (Fla. 1962). This is no burdensome chore but if it were the constitutional mandate to this court to maintain, as 'a central authority,' uniformity and harmony in the law administered by the Supreme Court

and the District Courts of Appeal would, nevertheless, require this procedure. Id.

III. IN FLORIDA, THE ELECTION OF VENUE IS WITH THE PLAINTIFF.

The election of venue is with the plaintiff and although it may be more convenient to the defendant and possibly to the plaintiff that the action be prosecuted in another county or circuit, nevertheless, if the election is one which the plaintiff has properly exercised under the statute, then the election still remains his and not one which can be dictated by the defendant. Greyhound Corp. v. Rosart, 124 So. 2d 708 (Fla. 3rd Dist. Ct. App. 1960). To hold otherwise would be to nullify the venue statute which gives the plaintiff the right to file his action in a particular place. Greyhound Corp. v. Rosart, 124 So. 2d 708 at 712 (Fla. 3rd Dist. Ct. App. 1960). The Petitioner, Jane Bevan, elected to file in Broward County which was properly exercised under the venue statute chapter 47.051 so the election of Broward County should remain and should not be dictated by the Respondents.

IV. FLORIDA STATUTE SECTION 47.051 ESTABLISHES THE PROPRIETY OF VENUE IN A COUNTY AS TO A FOREIGN CORPORATION THAT HAS

AN AGENT FOR SERVICE OF PROCESS IN THAT COUNTY.

Venue in Broward County is appropriate for this case since CT Corporation resides in Broward County. CT Corporation is the registered agent for the Respondent's NBC News Bureaus, Inc., Waterman Broadcasting and NBC News Channel, Inc., foreign corporations. Florida Statue Section 47.051 states that actions against foreign corporations doing business in this state shall be brought in a county where such corporation has an agent or other representative. The existence merely of an agent, for service of process or otherwise, in a particular county would establish the propriety of venue in that county as to a foreign corporation. Berdos v. Dowling, 544 So. 2d 1129 (Fla. 4th Dist. Ct. App., 1989); Nylund v. Motel 6, Inc., 490 So. 2d 216 (Fla. 4th Dist. Ct. App., 1986); Vellanti v. Piper Aircraft Corp., 394 So. 2d 1063 (Fla. 3rd Dist. Ct. App., 1981). In the case at bar, none of the Respondent's in their transfer motions refute the fact that Respondent's NBC News Bureaus, Inc., Waterman Broadcasting and NBC News Channel, Inc., registered agents are in Broward County. Since CT Corporation is the registered agent for service of process for Respondent's NBC News Bureaus, Inc., Waterman Broadcasting and NBC News Channel, Inc., in Broward County, its existence in Broward County establishes the propriety of venue in Broward County for the present case.

In the Berdos v. Dowling case, the Fourth District Court of Appeal held that because the defendant had used the same CT Corporation as in the case before this Court, that Venue was appropriately laid in Broward County. Here, as demonstrated by the sheriff's return of service, which is presumptively correct and has not been challenged, the Respondent's NBC News Bureaus, Inc., Waterman Broadcasting and NBC News Channel, Inc., foreign corporations, were served through CT Corporation, a corporate agent they had designated for that purpose in Broward County. It is therefore clear that venue has been properly laid in Broward County under Florida Statues section 47.051 and under Berdos v. Dowling, 544 So. 2d 1129 (Fla. 4th Dist. Ct. App., 1989); Nylund v. Motel 6, Inc., 490 So. 2d 216 (Fla. 4th Dist. Ct. App., 1986); and Vellanti v. Piper Aircraft Corp., 394 So. 2d 1063 (Fla. 3rd Dist. Ct. App., 1981).

Respondent's rely on ATP Tour, Inc. v. Skoff, 758 So. 2d 1226 (Fla. 4th Dist. Ct. App., 2000); Avis Rent A Car Systems, Inc. v. Broughton, 672 So. 2d 656 (Fla. 4th Dist. Ct. App., 1996); and Braun v. Stafford, 529 So. 2d 735 (Fla. 4th Dist. Ct. App., 1988) that states the trial court abuses its discretion in denying a motion for change of venue when the only connection to the county in which the action is filed is the fact that the non-resident corporation has an agent there. Here there is more than one connection with Broward County besides the Respondent's registered agent. The Respondent's

broadcasted, published and distributed a newstory involving the Petitioner in Broward County via the internet. Since there is more than one connection in Broward county by the Respondent's, then Avis, Braun, and ATP Tour should not apply in the present case and venue should be in Broward County.

Furthermore, the Respondent's in this case have failed to show substantial inconvenience or undue expense in Appellant's choice of forum in Broward County. Taylor v. Dasilva, 401 So. 2d 1161 (Fla 3rd Dist. Ct. App., 1981). In the case before this court, the Respondent's are not inconvenienced by the Petitioner's choice of forum in Broward County since it is approximately a two hour's drive by car to Fort Lauderdale from Fort Myers. Furthermore, all of the depositions of witnesses will take place in Fort Myers and all of the Respondent's have an attorney in the Fort Lauderdale area to handle any motions before the court. Additionally, if the Respondent's decide to go to trial, the Respondent's in Fort Myers would not be inconvenienced by the short drive to the Broward Court.

V. VENUE IS APPROPRIATE IN ANY COUNTY WHERE THE APPELLEES PUBLISHED THE DEFAMATORY STATEMENTS.

The Respondent's published the defamatory statements of terrorism in Broward County over the internet and by publication using an email system to send the terrorist story to Broward County residents. Florida law states that a newspaper or television station may be sued in the county in which it circulates a story. FirstAmerica Development Corp. v. Daytona Beach News-Journal Corporation, 196 So. 2d 97 (Fla. 1966). Therefore, venue is appropriate in Broward County since the Respondent 's circulated the terrorist story about the Petitioner in Broward County through the use of the internet and the email system.

The Supreme Court of Florida has held that venue for a libel action is appropriately laid in the county where the publication was distributed or put on sale. Perdue vs. The Miami Herald Publishing Company, 291 So. 2d 604 (Fla. 1974). In that case, the Petitioner sought review of an order from the Second District Court of Appeal that granted respondent newspaper's motion to transfer for improper venue in an invasion of privacy action. The Petitioner asserted that venue for an invasion of privacy action was proper in a county where the newspaper was distributed or placed on sale, not only where the newspaper was published. The Supreme Court indicated that there were four possible proper venues for the libel action and found that one of the proper venues for a libel action was the county where the publication was distributed. The court remanded for further proceedings to

determine if the newspaper in question was published in petitioner's chosen venue, as alleged in the complaint.

In the present case, the Respondent 's published and distributed libelous statements through the internet and e-mail system to residents in Broward County. Therefore, venue is appropriate in Broward County since the Respondent 's published and distributed the story in question in Broward County. This Court should grant Petitioner's petition for reversal and remand of the order of the lower Court dated February 12th, 2002.

VI. FLORIDA STATUTE SECTION 47.101 SUPPORTS THAT VENUE BE HELD IN BROWARD COUNTY BECAUSE OF THE UNDUE INFLUENCE THAT THE APPELLEE'S HAVE IN LEE COUNTY.

Florida Statute Section 47.101 states that if a party believes he will not receive a fair trial in a court because the adverse party has an undue influence over the minds of the inhabitants of the county, venue in Fort Myers would be inappropriate. In the case at bar, the Respondent's control two out of the three major television networks in the Fort Myers area. The Respondent's have already run two primetime news hour stories stating that the Petitioner terrorizes the neighborhood, when that is an outright lie. The Respondent's perpetuated this terrorist lie by participating in organized

neighborhood meetings where more lies were broadcast by the Respondent's stating on the television that the plaintiff was associated with holding guns at neighbor's on different occasions and threatened to kill them. None of those ridiculous lies where ever reported to the police or the sheriff, but the Respondent's portrayed the Petitioner as a gun wielding terrorist and the people of Fort Myers where persuaded by the Respondent's perpetuation of those rumors and lies to believe that the Petitioner terrorizes the neighborhood. In addition, Respondents' attorney Steven Carta is the attorney of record for the News-Press, the only major newspaper in Lee County. It is an irrefutable fact that Attorney Carta has immense influence as to what is printed and what is not printed in this major newspaper. Venue in Fort Myers would be inappropriate because of Attorney Carta's undue influence over the minds of the inhabitants of Lee County. Therefore, because the Respondent's have an undue influence over the minds of the inhabitants of Lee County venue should remain in Broward County as stated by Florida Statute Section 47.101.

CONCLUSION

A Per Curiam Affirmed decision by the Florida District Court of Appeal offers no opinion, no records, no notations by the Judges nor their law clerks, nor explanation and no reasoning behind the decision. These absent opinions, records and

notations by the Judges and/or their law clerks are all kept secret, hidden from the general public and thus violates Florida's Sunshine Law Chapter 286 of Florida's Statutes. A publication of the opinion or an explanation for the courts ruling was mandatory under Florida's Sunshine Law. FLA. STAT. Section XIX. Not only would an opinion comply with the Sunshine Law, but would have offered the Petitioner Jane Bevan an explanation for the ruling of the District Court. This opinion would have afforded the Petitioner Jane Bevan with the understanding of how the court reached its opinion and also would have provided the opportunity to review her case to see if it had merit to appeal to a higher court. Due Process necessarily includes the right to notice and an opportunity to be heard. An individual's procedural due process rights are violated when a deprivation of a right has occurred without notice and an opportunity to be heard. It is a denial of due process when a petitioner is denied the right to be heard at the Supreme Court of Florida simply because the lower Appellate court did not write an opinion and issued a per curiam affirmed decision. In order to ascertain the significance of a decision of a district court of appeal when such court's opinion and judgment contain nothing more than the words 'per curiam affirmed' or language of similar import, it is necessary in the fulfillment of its constitutional duty for the Supreme Court, at least, to look into the 'record proper.' This is no burdensome chore but if it were the constitutional

mandate to the Supreme Court of Florida to maintain, as 'a central authority,' uniformity and harmony in the law administered by the Supreme Court and the District Courts of Appeal would, nevertheless require this procedure.

Because the Respondent's had a registered agent in Broward County and published and distributed the defamatory statements in Broward County over the internet and e-mail system then it was error for the lower court to change venue from Broward County to Lee County.

Therefore, it is requested that the District Courts of Appeal be ordered to issue opinions with their decisions in accordance with Florida's Sunshine Law; that the Supreme Court of Florida be ordered to look into the 'record proper'; and that the order of the lower court be reversed and the case remanded with an order stating that venue was appropriately laid in Broward County and the case should be heard and remain in the Broward County Court.

Respectfully Submitted,

Jane Bevan

Jane Bevan, Attorney Pro Se

APPENDIX

Florida Statue Section 47.051. Actions against corporations

Actions against domestic corporations shall be brought only in the county where such corporation has, or usually keeps, an office for transaction of its customary business, where the cause of action accrued, or where the property in litigation is located. Actions against foreign corporations doing business in this state shall be brought in a count, where such corporation has an agent or other representative, where the cause of action accrued, or where the property in litigation is located.

Florida Statue Section 47.101. Change of venue; application

(1) If a party desires a change of venue he may move therefor stating that he believes he will not receive a fair trial in the court where the action is pending:

(a) Because the adverse party has an undue influence over the minds of the inhabitants of the county.

(b) Because movant is so odious to the inhabitants of the county that he could not receive a fair trial.

(2) Such motion shall be verified and filed not less than ten days after the action is at issue unless good cause is shown for failure to so file. It shall set forth

the facts on which the motion is based and be supported by affidavits of at least two reputable citizens of the county not of kin to the defendant or his attorney.

The 2001 Florida Statutes

Title XIX Public Business | Chapter 286 Public Business: Miscellaneous Provisions | View Entire Chapter

CHAPTER 286

PUBLIC BUSINESS: MISCELLANEOUS PROVISIONS

286.001 Reports statutorily required; filing, maintenance, retrieval, and provision of copies.

286.0105 Notices of meetings and hearings must advise that a record is required to appeal.

286.011 Public meetings and records; public inspection; criminal and civil penalties.

286.0111 Legislative review of certain exemptions from requirements for public meetings and recordkeeping by governmental entities.

286.0115 Access to local public officials; quasi-judicial proceedings on local government land use matters.

286.012 Voting requirement at meetings of governmental bodies.

286.021 Department of State to hold title to patents, trademarks, copyrights, etc.

286.031 Authority of Department of State in connection with patents, trademarks, copyrights, etc.

286.035 Constitution Revision Commission; powers of chair; assistance by state and local agencies.

286.036 Taxation and Budget Reform Commission; powers.

286.041 Prohibited requirements of bidders on contracts for public works relative to income tax returns.

286.043 Limitation on use of funds for discriminatory contract or bid specifications relating to car rental concessions at airports.

286.23 Real property conveyed to public agency; disclosure of beneficial interests; notice; exemptions.

286.25 Publication or statement of state sponsorship.

286.26 Accessibility of public meetings to the physically handicapped.

286.27 Use of state funds for greeting cards prohibited.

286.001 Reports statutorily required; filing, maintenance, retrieval, and provision of copies.

(1) Unless otherwise specifically provided by law, any agency or officer of the executive, legislative, or judicial branches of state government, the State Board of Community Colleges, the Board of Regents, or the Public Service Commission required or authorized by law to make reports regularly or periodically shall fulfill such requirement by filing

an abstract of the report with the statutorily or administratively designated recipients of the report and an abstract and one copy of the report with the Division of Library and Information Services of the Department of State, unless the head of the reporting entity makes a determination that the additional cost of providing the entire report to the statutoril or administratively designated recipients is justified. A one-page summary justifying the determination shall be submitted to the chairs of the governmental operations committees of both houses of the Legislature. The abstract of the contents of such report shall be no more than one-half page in length. The actual report shall be retained by the reporting agency or officer, and copies of the report shall be provided to interested parties and the statutorily or administratively designated recipients of the report upon request.

(2) With respect to reports statutorily required of agencies or officers within the executive, legislative, or judicial branches of state government, the State Board of Community Colleges, the Board of Regents, or the Public Service Commission, it is the duty of the division, in addition to its duties under s. 257.05, to:

I (a) Regularly compile and update bibliographic information on such reports for distribution as provided in paragraph (b). Such bibliographic

information may be included in the bibliographies prepared by the division purs pursuant to s. 257.05(3)(c).

(b) Provide for at least quarterly distribution of bibliographic information on reports to:

1. Agencies and officers within the executive, legislative, and judicial branches of state government, the State Board of Community Colleges, the Board of Regents, and the Public Service Commission, free of charge, and

2. Other interested parties t upon request properly made and upon payment of the actual cost of duplication pursuant to s. 119.07(1).

(3) As soon as practicable, ,the administrative head of each executive, legislative, or judicial agency and each agency of 1 he State Board of Community Colleges, the Board of Regents, and the Public Service Commission required by law to make reports periodically shall ensure that those reports are created, stored, ,managed, updated, retrieved, and disseminated through electronic means.

(4) Nothing in this section shall be construed to waive or modify the requirement in s. 257.05(2) pertaining to the provision of copies of public documents to the division.

History.--ss. 26, 28, 29, ch. 84-254; s. 12, ch. 92-98; s. 104, ch. 92-142; s. 29, ch. 95-196.

286.0105 Notices of meetings and hearings must advise that a record is required to appeal.--Each board, commission or agency of this state or of any political subdivision thereof shall include in the notice of any meeting or hearing, if notice of the meeting or hearing is required, of such board, commission or agency, conspicuously on such notice, the advice that, if a person decides to appeal any decision made by the board, agency, or commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. The requirements of this section do not apply to the notice provided in s. 200.065 (3).

History.--s. 1, ch. 80-150; s. 14, ch. 88-216; s. 209, ch. 95-148.

286.011 Public meetings and records; public inspection; criminal and civil penalties.

(1) All meetings of any board or commission of any state agency or authority or of any agency or authority of any county, municipal corporation, or political subdivision, except as otherwise provided in the Constitution, at which official acts are to be taken are declared to be public meetings open to the public: at all times, and no resolution, rule, or formal action shall be considered binding except as taken or made at such meeting. The board or commission must provide reasonable notice of all such meetings.

(2) The minutes of a meeting of any such board or commission of any such state agency or authority shall be promptly recorded, and such records shall be open to public inspection. The circuit courts of this state shall have jurisdiction to issue injunctions to enforce the purposes of this section upon application by any citizen of this state.

(3)(a) Any public officer who violates any provision of this section is guilty of a noncriminal infraction, punishable by fine not exceeding $500.

(b) Any person who is a member of a board or commission or of any state agency or authority of any county, municipal corporation, or political

subdivision who knowingly violates the provisions of this section by attending a meeting not held in accordance with the provisions hereof is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(c) Conduct which occurs outside the state which would constitute a knowing violation of this section is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(4) Whenever an action has been filed against any board or commission of any state agency or authority or any agency or authority of any county, municipal corporation, or political subdivision to enforce the provisions of this section or to invalidate the actions of any such board, commission, agency, or authority, which action was taken in violation of this section, and the court determines that the defendant: or defendants to such action acted in violation of this section, the court shall assess a reasonable attorney's fee against such agency, and may assess a reasonable attorney's fee against the individual filing such an action if the court finds it was filed in bad faith or was frivolous. Any fees so assessed may be assessed against the individual member or members of such board or commission; provided, that in any case where the board or commission seeks the advice of its attorney and such

advice is followed, no such fees shall be assessed against the individual member or members of the board or commission. However, this subsection shall not apply to a state attorney or his or her duly authorized assistants or any officer charged with enforcing the provisions of this section.

(5) Whenever any board or commission of any state agency or authority or any agency or authority of any county, municipal corporation, or political subdivision appeals any court order which has found said board, commission, agency, or authority to have violated this section, and such order is affirmed, the court shall assess a reasonable attorney's fee for the appeal against such board, commission, agency, or authority. Any fees so assessed may be assessed against the individual member or members of such board or commission; provided, that in any case where the board or commission seeks the advice of its attorney and such advice is followed, no such fees shall be assessed against the individual member or members of the board or commission.

(6) All persons subject to subsection (1) are prohibited from holding meetings at any facility or location which discriminates on the basis of sex, age, race, creed, color, origin, or economic status or which operates in such a manner as to unreasonably restrict public access to such a facility.

(7) Whenever any member of any board or commission of any state agency or authority or any agency or authority of any county, municipal corporation, or political subdivision is charged with a violation of this section and is subsequently acquitted, the board or commission is authorized to reimburse said member for any portion of his or her reasonable attorney's fees.

(8) Notwithstanding the provisions of subsection (1), any board or commission of any state agency or authority or any agency or authority of any county, municipal corporation, or political subdivision, and the chief administrative or executive officer of the governmental entity, may meet in private with the entity's attorney to discuss pending litigation to which the entity is presently a party before a court or administrative agency, provided that the following conditions are met:

(a) The entity's attorney shall advise the entity at a public meeting that he or she desires advice concerning the litigation.

(b) The subject matter of the meeting shall be confined to settlement negotiations or strategy sessions related to litigation expenditures.

(c) The entire session shall be recorded by a certified court reporter. The reporter shall record the times of commencement and termination of the session, all discussion and proceedings, the names of all persons present at any time, and the names of all persons speaking. No portion of the session shall be off the record. The court reporter's notes shall be fully transcribed and filed with the entity's clerk within a treasonable time after the meeting.

(d) The entity shall give reasonable public notice of the time and date of the attorney-client session and the names of persons who will be attending the session. The session shall commence at an open meeting at which the persons chairing the meeting shall announce the commencement and estimated length of the attorney-client session and the names of the persons attending. At the conclusion of the attorney-client session, the meeting shall be reopened, and the person chairing the meeting shall announce the termination of the session.

(e) The transcript shall be made part of the public record upon conclusion of the litigation.

History.--s. 1, ch. 67-356; s. 159, ch. 71-136; s. 1, ch. 78-365; s. 6, ch. 85-301; s. 33, ch. 91224; s. 1, ch. 93-232; s. 210, ch. 95-148; s. 1, ch. 95-353.

286.0111 Legislative review of certain exemptions from requirements for public meetings and recordkeeping by governmental entities.--The provisions of s. 119.15, the Open Government Sunset Review Act of 1995, apply to the provisions of law which provide exemptions to s. 286.011, as provided in s. 119.15.

History.--s. 9, ch. 84-298; s. 2, ch. 85-301; s. 3, ch. 95-217.

286.0115 Access to local public officials; quasi-judicial proceedings on local government land use matters.

(1)(a) A county or municipality may adopt an ordinance or resolution removing the presumption of prejudice from ex parte communications with local public officials by establishing a process to disclose ex parte communications with such officials pursuant to this subsection or by adopting an alternative process for such disclosure. However, this subsection does not require a county or municipality to adopt any ordinance or resolution establishing a disclosure process.

(b) As used in this subsection, the term "local public official" means any elected or appointed public official holding a county or municipal office who recommends or takes quasi-judicial action as a member of a board or commission. The term does not include a member of the board or commission of any state agency or authority.

(c) Any person not otherwise prohibited by statute, charter provision, or ordinance may discuss with any local public official the merits of any matter on which action may be taken by any board or commission on which the local public official is a member. If adopted by county or municipal ordinance or resolution, adherence to the following procedures shall remove the presumption of prejudice arising from ex parte communications with local public officials.

1. The substance of any ex parte communication with a local public official which relates to quasijudicial action pending before the official is not presumed prejudicial to the action if the subject of the communication and the identity of the person, group, or entity with whom the communication took place is disclosed and made a part of the record before final action on the matter.

2. A local public official may read a written communication from any person. However, a written communication that relates to quasi-judicial action

pending before a local public official shall not be presumed prejudicial to the action, and such written communication shall be made a part of the record before final action on the matter.

3. Local public officials may conduct investigations and site visits and may receive expert opinions regarding quasi-judicial action pending before them. Such activities shall not be presumed prejudicial to the action if the existence of the investigation, site visit, or expert opinion is made a part of the record before final action on the matter.

4. Disclosure made pursuant to subparagraphs 1., 2., and 3. must be made before or during the public meeting at which a vote is taken on such matters, so that persons who have opinions contrary to those expressed in the ex parte communication are given a reasonable opportunity to refute or respond to the communication. This subsection does not subject local public officials to part III of chapter 112 for not complying with this paragraph.

(2)(a) Notwithstanding the provisions of subsection (1), a county or municipality may adopt an ordinance or resolution establishing the procedures and provisions of this subsection for quasijudicial proceedings on local government land use matters. The ordinance or resolution shall provide procedures and provisions identical to this subsection. However,

this subsection does not require a county or municipality to adopt such an ordinance or resolution.

(b) In a quasi-judicial proceeding on local government land use matters, a person who appears before the decisionmaking body who is not a party or party-intervenor shall be allowed to testify before the decisionmaking body, subject to control by the decisionmaking body, and may be requested to respond to questions from the decisionmaking body, but need not be sworn as a witness, is not required to be subject to cross-examination, and is not required to be qualified as an expert witness. The decissionmaking body shall assign weight and credibility to such testimony as it deems appropriate. A party or party-intervenor in a quasi-judicial proceeding on local government land use matters, upon request by another party or party-intervenor, shall be sworn as a witness, shall be subject to cross-examination by other parties or party-intervenors, and shall be required to be qualified as an expert witness, as appropriate.

(c) In a quasi-judicial proceeding on local government land use matters, a person may not be precluded from communicating directly with a member of the decisionmaking body by application of ex parte communication prohibitions. Disclosure

of such communications by a member of the decisionmaking body is not required, and such nondisclosure shall not be presumed prejudicial to the decision of the decisionmaking body. All decisions of the decisionmaking body in a quasijudicial proceeding on local government land use matters must be supported by substantial, competent evidence in the record pertinent to the proceeding, irrespective of such communications.

(3) This section does not restrict the authority of any board or commission to establish rules or procedures governing public hearings or contacts with local public officials.

History.--s. 1, ch. 95-352; s. 31, ch. 96-324.

286.012 Voting requirement at meetings of governmental bodies.--No member of any state, county, or municipal governmental board, commission, or agency who is present at any meeting of any such body at which an official decision, ruling, or other official act is to be taken or adopted may abstain from voting in regard to any such decision, ruling, or act; and a vote shall be recorded or counted for each such member present, except when, with respect to any such member, there is, or appears to be, a possible conflict of interest under the provisions of s. 112.311, s. 112.313, or s.

112.3143. In such cases, said member shall comply with the disclosure requirements of s. 112.3143.

History.--s. 1, ch. 72-311; s. 9, ch. 75-208; s. 2, ch. 84-357; s. 13, ch. 94-277.

286.021 Department of State to hold title to patents, trademarks, copyrights, etc.--The

legal title and every right, interest, claim or demand of any kind in and to any patent, trademark or copyright, or application for the same, now owned or held, or as may hereafter be acquired, owned and held by the state, or any of its boards, commissions or agencies, is hereby granted to and vested in the Department of State for the use and benefit of the state; and no person, firm or corporation shall be entitled to use the same without the written consent of said Department of State.

History.--s. 1, ch. 21959, 1943; ss. 22, 35, ch. 69-106; s. 2, ch. 70-440; s. 15, ch. 79-65.

Note.--Former s. 272.01.

286.031 Authority of Department of State in connection with patents, trademarks, copyrights,

etc.--The Department of State is authorized to do and perform any and all things necessary to secure letters patent, copyright and trademark on any invention or otherwise, and to enforce the rights of the state therein; to license, lease, assign, or otherwise give written consent to any person, firm or corporation for the manufacture or use thereof, on a royalty basis, or for such other consideration as sand department shall deem proper; to take any and all action necessary, including legal actions, to protect the same against improper or unlawful use or infringement, and to enforce the collection of any sums due the state and said department for the manufacture or use thereof by any other party; to sell any of the same and to execute any and all instruments on behalf of the state necessary to consummate any such sale; and to do any and all other acts necessary and proper for the execution of powers and duties herein conferred upon said department for the benefit of the state.

History.--s. 2, ch. 21959, 1943; ss. 22, 35, ch. 69-106; s. 2, ch. 70-440; s. 16, ch. 79-65.

Note.--Former s. 272.02.

286.035 Constitution Revision Commission; powers of chair; assistance by state and local agencies.

(1) The chair of the Constitution Revision Commission, appointed pursuant to s. 2, Art. XI of the State Constitution, is authorized to employ personnel and to incur expenses related to the official operation of the commission or its committees, to sign vouchers, and to otherwise expend funds appropriated to the commission for carrying out its official duties.

(2) All state and local agencies are hereby authorized and directed to assist, in any manner necessary, the Constitution Revision Commission established pursuant to s. 2, Art. XI of the State Constitution upon its request or the request of its chair.

History.--s. 1, ch. 77-201; s. 211, ch. 95-148.

286.036 Taxation and Budget Reform Commission; powers.

(1) The Taxation and Budget: Reform Commission appointed pursuant to s. 6, Art. XI of the State Constitution, is authorized to employ personnel and to incur expenses related to the official operation of the commission or its committees, and to expend funds appropriated to the commission for carrying out its official duties. Commission members and staff are entitled to per diem and reimbursement of

travel expenses incurred in carrying out their duties, as provided in s. 112.061.

(2) All state and regional agencies and governments are authorized and directed to assist, in any manner necessary, the Taxation and Budget Reform Commission upon its request.

(3) All local governments are authorized to assist the Taxation and Budget Reform Commission in any manner necessary. Municipal and county governments are encouraged to cooperate with the commission, examine their taxation and budgetary policies, and submit recommendations to the commission in the.form and manner prescribed by the commission.

(4) Each Taxation and Budget Reform Commission established pursuant to s. 6, Art. XI of the State Constitution and this section may not act or operate later than June 30 of the third year following the year in which the commission is required to be established.

(5) The Taxation and Budget Reform Commission is assigned, for administrative purposes, to the Board of Regents. The Board of Regents is directed to expedite, where possible, the business of the commission consistent with prudent financial and management practices.

(6) The Legislative Auditing Committee may at any time, without regard to whether the Legislature is then in session or out of session, take under consideration any matter within the scope of the duties of the Taxation and Budget Reform Commission, and in connection therewith may exercise the powers of subpoena by law vested in a standing committee of the Legislature.

History.--s. 12, ch. 90-203.

286.041 Prohibited requirements of bidders on contracts for public works relative to income tax returns.

(1) The state or any of its departments, agencies, bureaus, commissions, and officers and the counties, consolidated governments, municipalities, school districts, special districts, and other public bodies of this state, and the departments, agencies, bureaus, commissions, and officers thereof, shall not require, directly or indirectly, an audit or inspection of any federal or state income tax returns of any company, corporation, or person as a prior condition before entering into contracts with said company, corporation, or person to construct any public work or to supply any materials, labor, equipment or services, or any combination thereof.

(2) Any person who violates the provisions of this section is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.083, except that the fine shall not be less than $100.

History.--s. 1, ch. 72-130.

286.043 Limitation on use of funds for discriminatory contract or bid specifications relating to car rental concessions at airports.--No public funds shall be used by a unit of local government for the purpose of promulgating contract or bid specifications relating to car rental concessions at airports which would preclude a corporation authorized to do business in this state from submitting bids or entering into such contracts with such unit of local government. Nothing in this section shall prevent the local government from providing in such specifications a minimum annual guarantee of revenue to be paid to such unit of local government.

History.--s. 4, ch. 79-119.

286.23 Real property conveyed to public agency; disclosure of beneficial interests; notice; exemptions.

(1) Any person or entity holding real property in the form of a partnership, limited partnership, corporation, trust, or any form of representative capacity whatsoever for others, except as otherwise provided in this section, shall, before entering into any contract whereby such real property held in representative capacity is sold, leased, taken by eminent domain, or otherwise conveyed to the state or any local governmental unit, or an agency of either, make a public disclosure in writing, under oath and subject to the penalties prescribed for perjury, which shall state his or her name and address and the name and address of every person having a beneficial interest in the real property, however small or minimal. This written disclosure shall be made to the chief officer, or to his or her officially designated representative, of the state, local governmental unit, or agency of either, with which the transaction is made at least 10 days prior to the time of closing or, in the case of an eminent domain taking, within 48 hours after the time when the required sum is deposited in the registry of the court. Notice of the deposit shall be made to the person or entity by registered or certified mail before the 48-hour period begins.

(2) The state or local governmental unit, or an agency of either, shall send written notice by registered mail to the person required to make disclosures under this section, prior to the time when

such disclosures are required to be made, which written request shall also inform the person required to make such disclosure that such disclosure must be made under oath, subject to the penalties prescribed for perjury.

(3)(a) The beneficial interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to chapter 517, whose interest is for sale to the general public, is hereby exempt from the provisions of this section. When disclosure of persons having beneficial interests in nonpublic entities is required, the entity or person shall not be required by the provisions of this section to disclose persons or entities holding less than 5 percent of the beneficial interest in the disclosing entity.

(b) In the case of an eminent domain taking, any entity or person other than a public officer or public employee, holding real property in the form of a trust which was created more than 3 years prior to the deposit of the required sum in the registry of the court, is hereby exempt from the provisions of this section. However, in order to qualify for the exemption set forth in this section, the trustee of such trust shall be required to certify within 48 hours after such deposit, under penalty of perjury, that no public officer or public employee has any beneficial interest whatsoever in such trust. Disclosure of any changes in the trust instrument or of persons having

beneficial interest in the trust shall be made if such changes occurred during the 3 years prior to the deposit of said sum in the registry of the court.

(4) This section shall be liberally construed to accomplish the purpose of requiring the identification of the actual parties benefiting from any transaction with a governmental unit or agency involving the procurement of the ownership or use of property by such governmental unit or agency.

History.--ss. 1, 2, 3, 4, 5, ch. 74-174; s. 1, ch. 77-174; s. 72, ch. 86-186; s. 7, ch. 91-56; s. 212, ch. 95-148.

286.25 Publication or statement of state sponsorship.--Any nongovernmental organization which sponsors a program financed partially by state funds or funds obtained from a state agency shall, in publicizing, advertising, or describing the sponsorship of the program, state: "Sponsored by (name of organization) and the State of Florida." If the sponsorship reference is in written material, the words "State of Florida" shall appear in the same size letters or type as the name of the organization.

History.--s. 1, ch. 77-224.

286.26 Accessibility of public meetings to the physically handicapped.

(1) Whenever any board or commission of any state agency or authority, or of any agency or authority of any county, municipal corporation, or other political subdivision, which has scheduled a meeting at which official acts are to be taken receives, at least 48 hours prior to the meeting, a written request by a physically handicapped person to attend the meeting, directed to the chairperson or director of such board, commission, agency, or authority, such chairperson or director shall provide a manner by which such person may attend the meeting at its scheduled site or reschedule the meeting to a site which would be accessible to such person.

(2) If an affected handicapped person objects in the written request, nothing contained in the provisions of this section shall be construed or interpreted to permit the use of human physical assistance to the physically handicapped in lieu of the construction or use of ramps or other mechanical devices in order to comply with the provisions of this section.

History.--s. 1, ch. 77-277; s. 1, ch. 79-170; s. 116, ch. 79-400; s. 1, ch. 81-268.

286.27 Use of state funds for greeting cards prohibited.--No state funds shall be expended for the purchase, preparation, printing, or mailing of any

card the sole purpose of which is to convey holiday greetings.

History.--s. 1, ch. 92-21.

Supreme Court of Florida

MONDAY, JUNE 17, 2002

CASE NO.: SC02-1319
Lower Tribunal No.: 4D02-1005

JANE BEVAN vs. NBC NEWS BUREAUS, INC., ET AL.

Petitioner Respondents

It appearing to the Court that it is without jurisdiction, the Petition for Review is hereby dismissed. See Jenkins v. State, 385 So. 2d 1356 (Fla. 1980). No Motion for Rehearing will be entertained by the Court.

A True Copy Test:

Thomas D. Hall
Clerk Supreme Court
dy
Served:

LISA BEVAN
STEVEN CARTA
HON. MARILYN BEUTTENMULLER, CLERK
HON. HOWARD FORMAN, CLERK
HON. PATRICIA W. COCALIS, JUDGE
THOMAS R. JULIN

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA

FOURTH DISTRICT JANUARY TERM 2002

JANE BEVAN,

Appellant,

v.

NBC NEWS BUREAUS, INC., a foreign corporation; NBC NEWS CHANNEL, INC., a foreign corporation; WATERMAN BROADCASTING CORPORATION OF FLORIDA, INC., a Florida corporation; NBC-2 NEWS, a Florida organization; WBBH TELEVISION, a Florida organization; BERNARD E. WATTERMAN; STEVE PONTIUS; DEBORAH ABBOTT; DARREL ADAMS; CHRIS WADSWORTH; CRAIG WOLF; and KELLIE BURNS,
Appellees.
CASE NO. 4D02-1005
Decision filed May 8, 2002

Appeal of a non-final order from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Robert Lance Andrews, Judge; L.T. Case No. 01-6335-09.

Jane Bevan, Fort Myers, pro se.
Steven Carta of Simpson, Henderson, Carta & Randolph, Fort Myers, for appellees.

PER CURIAM.
AFFIRMED.
POLEN, C.J., KLEIN and HAZOURI, JJ., concur.

NOT FINAL UNTIL THE DISPOSITION OF ANY TIMELY FILED MOTION FOR REHEARING.

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA FOURTH DISTRICT, P.O. BOX 3315, WEST PALM BEACH, FL 33402

May 8, 2002

CASE NO.: 4D02-1005
L.T. No. : 01-6335 09

Jane Bevan v. Nbc News Bureaus, Inc., Et Al.

Appellant / Petitioner(s), Appellee / Respondent(s).

BY ORDER OF THE COURT:

ORDERED that appellees' April 11, 2002, motion to strike is hereby determined to be moot.

I HEREBY CERTIFY that the foregoing is a true copy of the original court order.

Served:

Jane Bevan Steven Carta
mg

MARILYN BEUTTENMULLER, Clerk
Fourth District Court of Appeal

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA FOURTH DISTRICT, P.O. BOX 3315, WEST PALM BEACH, FL 33402

February 25, 2002

CASE NO.: 4D02-335
L.T. No. : 01-6335 09

JANE BEVAN v. NBC NEWS BUREAUS, INC.,

ET AL.

Appellant / Petitioner(s), Appellee / Respondent(s).

BY ORDER OF THE COURT:

ORDERED that appellees' motion filed February 11, 2002, to dismiss is granted, and the above-styled appeal is hereby dismissed.

I HEREBY CERTIFY that the foregoing is a true copy of the original court order.
Served:
Howard Forman, Clerk Jane Bevan Thomas R. Julin

Steven Carta
ch
MARILYN BEUTTENMULLER, Clerk
Fourth District Court of Appeal

IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT IN AND FOR BROWARD COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

CASE NO. 01006335-09

Judge Robert L. Andrews

JANE BEVAN,)
)
Plaintiff,)
)
v.)
)
NBC NEWS BUREAUS, INC., et al-)
)
)
Defendant)

Order Denying Motion to Compel Discovery

This cause came before the Court on December 12, 2001, on the plaintiff s motion to compel the defendant to produce certain documents. The Court considered the motion, the argument of the parties, and was otherwise duly advised. It is ordered and adjudged that the motion is denied.

Done and ordered in chamber at Fort Lauderdale, Broward County, Florida, this 14th day of January , 2002
Robert L. Andrews
Circuit Judge

Copies furnished to Jane Bevan, pro se Steven Carte, Esq. Thomas R_ Julin, Esq.

IN THE CIRCUIT COURT OF THE
SEVENTEENTH JUDICIAL CIRCUIT IN
AND FOR BROWARD COUNTY, FLORIDA

General Jurisdiction Division
Case No. 01006335-09
Judge: The Honorable Robert L. Andrews

JANE BEVAN,
Plaintiff,
vs.

NBC NEWS BUREAUS, INC., a foreign corporation; NBC NEWS CHANNEL, INC., a foreign corporation; WATERMAN BROADCASTING CORPORATION OF FLORIDA, INC., a Florida corporation; NBC-2 NEWS, a Florida organization; WBBH TELEVISION, a Florida organization; BERNARD E. WATERMAN; STEVE PONTIUS; DEBORAH ABBOTT; DARREL ADAMS; CHRIS WADSWORTH; CRAIG WOLF; and KELLIE BURNS,
Defendants.

Order Granting Defendants' Motion to Change Venue to Lee County

This cause came before the Court on February 12, 2002, on the defendants' motion to change the venue of this action to Lee County, Florida, pursuant to section 47.122, Florida Statutes.

The Court has reviewed the complaint, the motion, the submissions of the parties in support of and in opposition to the motion, and otherwise has been fully advised. The record before the Court shows that the plaintiff and all of the individual defendants reside in Lee County, Florida; the news stories that are the subject of this action were broadcast in Lee County, Florida; and all of the witnesses regarding the subject matter of those broadcasts reside in Lee County, Florida. The only nexus Broward County has to this action is that the resident agent of the three corporate defendants has its office in this county. This does not provide a basis for keeping this case in Broward County. See e.g., ATP Tour, Inc. v. Skoff, 758 So. 2d 1226, 1228 (Fla. 4th DCA 2000) (citing additional cases).

The interests of justice plainly will be served by transferring the venue of this action to Lee County, Florida. Accordingly, it is ordered and adjudged, without conditions, that the defendants' motion is granted and this action shall be transferred to the Circuit Court of the Twentieth Judicial Circuit of Florida in and for Lee County, Florida. In accordance with section 47.091, Florida Statutes, the

plaintiff shall pay the filing fee required to file a new action in the court to which the action is moved.

Done and ordered in chamber at Broward County, Florida, this 12th day of February, 2002.

Robert L. Andrews
Circuit Court Judge
Copies furnished to:

Jane Bevan, pro so Thomas R. Julin, Esq.

IN THE CIRCUIT COURT OF THE
SEVENTEENTH JUDICIAL CIRCUIT IN
AND FOR BROWARD COUNTY, FLORIDA

General Jurisdiction Division

Case No. 01006335-09

Judge: The Honorable Robert L. Andrews

JANE BEVAN,
Plaintiff,

vs.

NBC NEWS BUREAUS, INC., a foreign corporation; NBC NEWS CHANNEL, INC., a foreign corporation; WATERMAN BROADCASTING CORPORATION OF FLORIDA, INC., a Florida corporation; NBC-2 NEWS, a Florida organization; WBBH TELEVISION, a Florida organization; BERNARD E. WATERMAN; STEVE PONTIUS; DEBORAH ABBOTT; DARREL ADAMS; CHRIS WADSWORTH; CRAIG WOLF and KELLIE BURNS,
Defendants.

Order Denying Defendants' Motion to Change Venue

This cause came before the Court on the defendants' motion, brought pursuant to Florida Statutes, section 47.122, to change venue of this action to Lee County, Florida.

The Court, having reviewed the file and being otherwise fully advised in the premises, orders and adjudges that the defendants' motion is denied without prejudice.

Done and ordered at Broward County, Florida, this 5th day of September, 2001

Robert L. Andrews
Circuit Court Judge

Copies furnished to all counsel of record.